

WORK SESSION – January 7, 2014

Mayor D. S. Gysberts called this Work Session of the Mayor and City Council to order at 4:04 p.m., Tuesday, January 7, 2014, in the Council Chamber at City Hall. Present with the Mayor were Councilmembers K. B. Aleshire, M. E. Brubaker, L. C. Metzner, D. F. Munson and P. M. Nigh; City Administrator Bruce Zimmerman, City Attorney William Nairn and City Clerk D. K. Spickler.

Presentation from Miracle Ear

Ken Menard and Maya Haines, Representatives of Miracle Ear, presented a check in the amount of \$ 1,000.00 as a donation to the Dog Park. Ms. Haines stated Miracle Ear raised the money by dedicating a portion of the sales of hearing aids during a recent campaign. Mr. Menard stated Miracle Ear serves the hearing impaired community and they want to be more involved in the business community in Hagerstown.

Mayor Gysberts thanked Miracle Ear for their generous donation and support of the dog park.

General Obligation Bond Sale Options

Michelle Hepburn, Acting Finance Director, and Lester Guthorn, City Financial Advisor, were present to discuss the General Obligation Bond Sale Options and Rating Agency Evaluation.

During the November 12, 2103 Work Session, the Mayor and Council were provided a summary outlining the originally anticipated 2013 Public General Obligation Bond Sale totaling \$ 4,154,427, and an alternative approach recommended by staff to use a 2013 Private Placement Financing in the amount of \$ 1,653,427.

The Private Placement Financing option holds certain advantages for the City in terms of cost and timing. In addition, the approach recommends the use of Water Fund Reserves and FY 2013 General Fund Surplus to lower the amount of the borrowing from \$ 4,154,427 to \$ 1,653,427. This approach recommends that FY 2013 General Fund Surplus pay for the \$ 346,000 in Fire Department vehicles purchased this year.

Mr. Guthorn stated bonds can be issued through a public sale (competitive or negotiated) or through a private placement. Bonds issued are general obligation bonds of the City. These bonds include a repayment pledge of the full faith and credit of the City and its unlimited taxing authority. Bonds pay for the City's capital projects and for the cost of issuance associated with the sale. A defined list of projects with dollar amounts is required prior to the sale.

The number of participants and documents required for a public sale is significantly greater for a public sale than it is for a private placement. An ordinance authorizing the bond issue and a Bond Resolution to authorize the issuance are required for either form of bond issue. Costs for a private placement are less than for a public sale. The cost of financing will include an underwriter's discount for a public sale and a placement fee for

a private placement (placement fee is in the form of a higher interest rate and is built into the interest rate received, generally higher than the fee charged in a public sale). There are fewer bidders for private placements.

Interest rates for a public sale are generally lower than interest rates for a private placement due to a substantially higher number of potential bidders. Private placement with a bank generally has an amortization of 15 years or less. Banks will most likely be more interested in smaller borrowing amounts assuming the issue is “bank qualified”. Bank qualified bonds are bonds that are issued by an entity that has a total calendar year debt issuance of less than \$ 10 million. The City is considered bank qualified. A shorter amortization period lowers the overall cost of borrowing, but increases the annual debt service costs.

Rating agencies evaluate the City every time it does a public sale. If the City does not issue debt, the agencies still routinely evaluate the City as maintenance for the ratings on outstanding bond issues. The rating agencies evaluate the City using the following criteria: finances, debt, management and the economy. Rating agency criteria does not vary between issuers.

Councilmember Munson asked what happens if there are no bidders for a private placement bond. Mr. Guthorn stated the City would then proceed with the public bid process.

Councilmember Aleshire asked if a public sale is the same as issuing tax exempt bonds. Mr. Guthorn stated, in this case, there is no difference.

Councilmember Brubaker pointed out the issuers will rely on the City’s existing agency rating, which is good. Through the issue of a bond, the City is spreading the cost of capital expenses over several years. Strong reserves are important for the City to maintain.

Mr. Zimmerman stated the bond issue must include specific projects. Mr. Guthorn stated there is a time frame in which the City can incorporate prior purchases and expenditures into the project list.

Mr. Zimmerman acknowledged the hard work by Michael Spiker, Director of Utilities, and Nancy Hausrath, Water Operations Manager, with CIP management and funding.

It was the general consensus of the Mayor and Council to move forward with the private placement bond issue. A resolution will be included on the January 28, 2014 agenda for approval.

#### Water and Wastewater Rates - Five Year Rate Plan

Michael Spiker, Director of Utilities, Nancy Hausrath, Water Operations Manager, Nelia Tidler, Utilities Financial Manager, and Dave Hyder, VP Municipal & Financial Services Group, were present to discuss water and wastewater rates.

The Utilities Department Financial/Administrative staff and the Municipal & Financial Services Group (MFSG) staff have revised the Executive Summary of the proposed Water and Wastewater Five Year Rate Plan that would be in effect from Fiscal Year 15 through the end of Fiscal Year 19.

Staff recommends adoption of Alternative #1 as the financial basis for a five year rate plan. Alternative #1 utilizes the following increases in the wastewater rates: FY 15 – 12%, FY 16 – 4%, FY 17 – 4%, FY 18 – 2% and FY 19 – 2%. The water rates would rise by 5% each of the five years. To ensure the continued health of the water system it is recommended that the City adjust rates as defined by the financial plan. The annual adjustments will eliminate the need for substantial increases in future years. The water fund will experience minor shortfalls due to yearly fluctuations in capital funding; however, the water system has sufficient cash reserves to support these fluctuations. To ensure the continued health of the wastewater sewer system, staff recommends that the City adjust rates as defined by the financial plan. They are recommending a very substantial increase in wastewater rates in FY 2015. This level of increase is recommended due to the limited cash within the fund and the substantial shortfall in revenues compared to expenditures. An increase of this magnitude will be necessary unless the City can reduce expenditures in the wastewater fund or potentially delay/defer capital projects. Although the increases will still result in a shortfall in FY 2015, the overall cash balance of the fund is healthy enough to withstand the shortfall until the fund itself becomes self-sustaining and results in a positive cash flow in FY16. The wastewater increases in the current plan were averaged over the five years in order to avoid an initial projected large increase in the first year with the understanding the fund would not become financially solvent until the fifth year of the plan. This was accomplished through the deference of CIP, vehicle purchases, and the continued open and unfilled positions within the division.

Based on the updated mode, the group recommends that the City adjust fire line charges at an annual rate of 3% to ensure that the fire line charges keep up with the increasing cost of providing private fire protection service.

Mr. Spiker pointed out, even with the recommended increases, the City of Hagerstown water and wastewater rates are still well below other jurisdictions.

Councilmember Brubaker pointed out the rates are not being raised across the board. He supports moving forward with Alternative #1.

Councilmember Aleshire pointed out there would be 20% in operating reserves, which is enough cash flow to cover a two week period.

Mr. Hyder stated the City has done an excellent job in managing the utilities.

It was the general consensus to support Alternative #1 and continue the process for amending the water and wastewater rates.

A Public Hearing will be held on January 28, 2014. Introduction of the required ordinances will be included on the agenda for January 28, 2014.

City Center Business Retention and Expansion Survey Results

Andrew Sargent, Downtown Manager, presented the final summary report of the City Center Business Retention and Expansion Survey. In an effort to gain a better understanding of the needs, challenges and opportunities facing City Center Businesses, staff administered a survey to these businesses. Other local stakeholders such as the Downtown Alliance and Greater Hagerstown Committee helped to distribute the survey and were solicited for input as well. A total of 362 respondents were solicited for input and 84 responses were received for an overall response rate of 20%, which is on the high-end for expectations of an external survey such as this.

Three important findings of the survey were:

1. There is a large percentage (54%) of City Center Businesses that have either too much or too little space.
2. Nearly 60% of the respondents are not considering moving or selling their business in the next year.
3. 41% of the respondents have experienced sales growth in the past year.

Currently, staff are using the information gathered in targeted outreach efforts. For instance, the 40 businesses that said their space was either too large or too small for their needs have been contacted for assistance in locating suitable space. Also, those businesses that have expressed a desire to relocate in the next year will be contacted directly to see if there is anything staff can do to assist and keep them in the City Center.

Mayor Gysberts is actively recruiting a friend of his to locate a destination candy store in Hagerstown. He owns successful candy stores in Virginia Beach, Virginia, and the Outer Banks, North Carolina. The inexpensive rent in Hagerstown is a key factor.

The majority of City Center businesses have a website for their business and almost 72% have business Facebook pages. Twitter and LinkedIn are utilized by 27% of the businesses.

City Center businesses are mainly open during the weekdays, and 62% of the responding businesses are not open past 5:00 p.m. Some businesses provide parking for their employees.

The survey included some positive comments and some negative comments. Staff will use these comments to reach out to respondents to discuss the responses further.

Mr. Sargent indicated the survey helps to give credence to some of the things staff is doing to assist businesses in City Center.

Councilmember Aleshire finds it odd that the majority of businesses close by 5:00 p.m. and yet, the survey shows people want more events, which most likely would be evening events.

Mayor Gysberts stated a challenge is that business owners have to make repairs to the properties because the landlords won't.

Councilmember Munson stated evening events are important. The businesses need additional opportunities to attract customers. He suggested completing this survey each year.

### Update of Loan Portfolio

Stacey Pierre-Louis, Business/Community Development Finance Specialist, and Jonathan Kerns, Community Development Manager, and William Nairn, City Attorney, were present to provide information about the Community Development loan portfolio.

Sixty-five percent of the portfolio is active. Since the last update, one loan has been paid off and three new loans have been approved. Progress has been made on the delinquent loans. Payments were made on three loans, which reduced the past due amounts.

Duvinage, LLC received a \$ 100,000 loan. This was a gap loan to assist Duvinage with the acquisition of Sharon Stairs. Duvinage was able to obtain a bank loan but needed additional financing. This loan was made with a \$ 100,000 grant to the City from the Maryland Economic Development Assistance Fund, which was matched with \$ 50,000 from the Upper Floors Redevelopment Fund. Repayments will provide program income for the Fund without reduction of the fund balance.

An \$ 18,500 loan was provided to Yumminess Bakery & Café to assist with their startup. Yumminess is located in the City Center. The owner had cash equity and was able to obtain an unsecured bank loan for \$ 25,000, but needed additional funds to purchase equipment, pay for other startup costs, and hire employees.

Girls, Inc. received a loan for a roof replacement for the facility at 626 Washington Avenue. The amount of the loan was \$ 45,000. Girls, Inc. had an existing CDBG loan originated in 2005 for \$ 281,000 to provide gap funding for the expansion of the facility. The new loan was combined with the original to keep payments simple and manageable for the organization.

Two loans, Spirit of the Lotus Tea Co. (\$ 9,903.03) and VJS, Inc., DBA Rocky's Pizza (\$ 103,387.05), are being shifted to inactive status. Even though the loans are considered inactive, they are not forgiven.

The loan to Clyde F. Deming/28 South Potomac St., LLC is delinquent, however the client is attempting to catch up and has recently begun making payments again. Payments had not been made since December, 2011. Payments were made in November and December, 2013.

The holder of a single family loan is attempting to reduce the past due balance. Demcore, LLC has recently begun making payments again. The Elks Lodge – Pride of Hagerstown is in communication with staff and a loan modification process has begun.

The currently adopted guidelines are “If a loan is determined to be in default, the matter will be conveyed to the City Attorney for Disposition.” Staff continually monitor

loan statuses. Steps include both written and phone contact with the client to provide the outstanding balance, inform the client of next steps in the recovery process, and discuss payment options. There is the potential of reporting the delinquency to a credit bureau. Referral to the City Attorney is also an option.

LendingPro software has provided a low-cost and efficient solution for servicing and tracking loans. Loan origination and maintenance are now more streamlined thereby providing enhanced loan tracking and better customer service.

Councilmember Brubaker asked if interest is charged for these loans. Mr. Kerns indicated most loans do include an interest charge.

Councilmember Aleshire asked that a status report of these loans be provided to the Mayor and City Council on a regular basis. Ms. Pierre-Louis stated a report could be provided to the Mayor and City Council monthly.

Councilmember Brubaker asked that an annual report be provided as well.

#### Update of Noise Ordinance

Kathleen Maher, Planning Director, Police Captain Paul Kifer, and City Attorney William Nairn, were present to discuss additional revisions to the Noise Ordinance.

At the December 17, 2013 meeting, Councilmember Metzner asked that Section 155-6, Variances and Section 155-5, Exemptions, be discussed further.

In Section 155-6, it indicates the City Clerk can determine whether to grant or deny an application for a variance. At present, the Noise Ordinance does not contain a variance section. However, it does exempt “any activity or event approved in advance by the Mayor and City Council, subject to the conditions and restrictions imposed thereon by the Mayor and City Council.” Councilmember Metzner does not think placing an individual staff member in the position to make a variance determination from legislation approved by the Mayor and City Council is appropriate.

Mr. Nairn stated the variance was included to cover instances in which an event would be planned that would fall between Mayor and Council meetings.

Ms. Maher cited an example of someone who decides they want to hold a party within a week, prior to a Mayor and Council meeting.

Councilmember Brubaker suggested it would be more appropriate to have variances considered by the Code Division, as they are used to dealing with these kinds of issues. Councilmember Metzner stated he does not feel it is appropriate or fair to have a staff member making a determination of a variance from legislation.

Councilmember Brubaker asked if the Mayor and Council could approve a variance at a Work Session, if necessary. Councilmember Metzner stated this could be included in the ordinance.

Councilmember Aleshire is in favor of not allowing exemptions. Councilmember Metzner stated a variance is more appropriate than an exemption.

It was the general consensus of the Mayor and City Council to indicate variances may be granted by the Mayor and City Council and that exemptions are approved by the Mayor and City Council.

Approval of the revised ordinance will be included on the January 28, 2014 agenda.

Housing and Neighborhoods Legislation – Crime Free, Excessive Use of Services and Rental Facilities

John Lestitian, Director of Department of Community and Economic Development, Police Chief Mark Holtzman, and City Attorney Mark Boyer were present to discuss concerns and recommendations from the Mayor and Council for the legislation that was offered for consideration in December. The legislation includes Crime Free Housing, revisions to Excessive Use of Services and revisions to Rental Facilities.

Councilmember Metzner intends to vote for this ordinance. He suggested the Crime Free Housing operator's license requirement be included with the Rental Facilities ordinance, so there are not duplicate license requirements.

Councilmember Metzner stated landlords and management companies will be required to attend a training session every two years. He thinks landlords who have not had any qualifying calls in two years should be exempt from attending additional educational sessions. He also suggested providing the session on DVD or on Channel 25.

Councilmember Metzner pointed out the excessive calls for services ordinance changes are not extensive. There is a nuisance law in effect. He asked for additional information for the amount of nuisance calls that have been noted. He stated the definition of criminal activity is geared toward illegal drug use. He does not think drug activity should be singled out. He would support defining criminal activity without the drug use designation.

Councilmember Metzner stated he would be in favor of lowering the excessive call limit, depending on the statistics for the number of times the law has been used. He has discussed the crime free housing ordinances with the landlord association. He has respect for most of the members of the association. He suggested that some members of the association would be able to teach others how to obtain a background check.

Mayor Gysberts stated self regulation for landlords is not effective. He pointed out there are landlords in Hagerstown that have a negative impact on neighborhoods.

Councilmember Brubaker stated he supported combining the rental license and the certification so there is not dual registration. It is reasonable to waive future educational sessions for landlords with good track records. He stated there is a lot of misunderstanding and exaggeration circulating about these ordinances.

Councilmember Aleshire pointed out the exaggeration has not been provided by this body. It appears there are three different ordinances proposed to achieve the same result – to improve the condition of the neighborhoods. As long as the same goal is achieved, he would support combining some of the ordinances. He stated the Mayor and Council have discussed this legislation for several months. He does not want to delay the process when there is consensus to move forward.

Councilmember Metzner stated he anticipates the ordinances will be introduced at the January 28, 2014 meeting.

Councilmember Brubaker asked if a conviction is required for a call to be noted as a qualifying call for the excessive use of services ordinance, or if an arrest triggers the designation. Councilmember Metzner stated what triggers the ordinance is criminal activity. This ordinance does not require a landlord to evict a tenant where there has been criminal activity. If a qualifying call is established, the landlord will be notified of the incident. Mayor Gysberts stated there is no further action, unless there are more calls. The call log is kept by location, not by tenant.

Chief Holtzman stated the designation is based on the charges filed, not a conviction.

Mayor Gysberts stated continual presence of the police in a neighborhood for repeated reports of criminal activity negatively impacts the neighborhood as well.

Councilmember Nigh stated many landlords do not reside in the City of Hagerstown. She stated the code regulations were reduced by the previous administration and this is a likely cause of the problems neighborhoods are experiencing. She wondered if combining the rental license with the certification requirement will reduce the effectiveness of the rental license. Mr. Lestitian indicated it will not, as there will be separate regulations.

Mr. Lestitian stated there are some people more concerned about their business than they are about the community. Staff does not present these concepts lightly. Staff is concerned for the City's neighborhoods. Protecting the neighborhoods has to be the main focus.

Chief Holtzman and Mr. Lestitian met with the executive board of the landlord association and offered the opportunity to work together on this legislation. The board stated they were reluctant to work with the City. Staff will continue to reach out to the association. There is value in partnering with many agencies in this community.

Mr. Lestitian indicated other municipalities in Maryland are considering including repeat weed, sidewalk, etc. notices in an excessive calls for service ordinance. Hagerstown staff repeatedly have to keep telling people to take care of high weeds, sidewalks, and other property maintenance issues. In 2013, 640 properties received second notices about these nuisances. More than 300 received third notices. These kind of nuisances also negatively impact the neighborhoods. He stated staff has been looking at ways to deal with smaller nuisances.

Mr. Zimmerman stated this initiative is a clear message to residents that the City wants to preserve the neighborhoods.

In summary, the licensing requirement will be combined under the existing Rental Facilities ordinance. Training will be provided for applicants. Bi-annual training will not be required for properties that are in compliance for at least two years.

Councilmember Nigh asked for information regarding how many cases have been taken to court. This will be provided.

Citizens should report suspected violations to the Code Enforcement office.

The topics considered in this discussion will be incorporated into draft ordinances for the Mayor and Council's review.

### **CITY ADMINISTRATOR'S COMMENTS**

*Bruce Zimmerman, City Administrator*, pointed out a number of budget issues were discussed during this meeting. There will be additional budget items discussed in the coming weeks.

### **MAYOR AND COUNCIL COMMENTS**

*Councilmember L. C. Metzner* appreciates how well employees handle the extra work created by weather conditions. He asked that the alley at the Court House be cleared of ice.

*Councilmember P. M. Nigh* thanked City employees. She applauded the Narcotics Task Force for their efforts to shut down drug activity on Hamilton Boulevard. The crime free housing legislation would have helped end this activity sooner.

*Councilmember D. F. Munson* thanked the City employees. He congratulated the organizers of the Donut Drop.

*Councilmember K. B. Aleshire* mentioned there were several recent Letters to the Editor that were not accurate. The first was opposing the crime free housing legislation. The author was not a City resident. Another letter indicated there were donors ready to donate toward a new stadium. It was also stated the Board of Education made the decision to move the Central Offices to Downsville Pike after the Mayor and Council met with them. He stated it was clear to him the decision on that location was made long before the City discussed options with the Board. He is concerned that misinformation is being reported.

*Councilmember M. E. Brubaker* reiterated what other Councilmembers have said about City employees. The City has a good foundation.

*Mayor D. S. Gysberts* also thanked City employees for their work. The Hub City 100 Miler kicked off on January 6, 2014. In spite of very cold temperatures, many people

attended the event. Some refuse collections have been delayed due to the cold weather. The collections will be caught up by the end of the week.

There being no further business to come before the Mayor and City Council, on a motion duly made, seconded and passed, the meeting was adjourned at 7:14 p.m.

Respectfully submitted,

Donna K. Spickler  
City Clerk

Approved: February 25, 2014